

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

ENTERED

FEB 23 2005

U.S. DISTRICT COURT
CLARKSBURG, WV 26301

RANDY COOPER,

Plaintiff,

v.

CIVIL ACTION NO. 1:05CV25

THOMAS McBRIDE,

Defendant.

REPORT AND RECOMMENDATION

This matter is pending before me for initial review and report and recommendation pursuant to LR PL P 83.02. On February 7, 2005, the plaintiff, Randy Cooper, filed a *pro se* complaint against Thomas McBride, along with an Application for Leave to Proceed Without Prepayment of Fees.

The undersigned notes that the complaint is confusing and vague. Further, the plaintiff indicates in his complaint that he filed another lawsuit dealing with the same facts which had been dismissed. The plaintiff does not indicate whether the prior lawsuit was filed in federal or state court and he only indicates that the prior lawsuit had been filed in Beckley and Huntington.

Because the plaintiff is incarcerated in the Mount Olive Correctional Complex and the alleged wrongdoing occurred at the Mount Olive Correctional Complex which is located in Fayette County, which is located in the Southern District of West Virginia, venue is proper in the United States District Court for the Southern District of West Virginia. Thus, the undersigned recommends that the case be transferred to the Southern District for further proceedings.

The plaintiff may file, within ten (10) days after the date of this Recommendation, with the Clerk of the Court written objections identifying the portions of the Recommendation to which objections are made, and the basis for such objections. Failure to timely file objections to the Recommendation set forth above will result in waiver of the right to appeal from a judgement of this Court based upon such Recommendation.¹

The Clerk of Court is directed to mail a copy of this Report and Recommendation to the *pro se* plaintiff.

Dated: February 23, 2005



JOHN S. KAULL
UNITED STATES MAGISTRATE JUDGE

¹ 28 U.S.C. § 636(b)(1); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); Thomas v. Arn, 474 U.S. 140 (1985).